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8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA
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12 DAVID DILLIER,)
13 Petitioner,) 2:07-cv-1270-RCJ-RJJ
14 vs.) ORDER
15 CLARK COUNTY DETENTION)
16 CENTER, *et al.*,)
17 Respondents.)
_____ /

18 This action is a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. §
19 2254, by David Dillier, an inmate at the Clark County Detention Center.
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21 Petitioner has submitted his petition, supplements to the petition, and several motions
22 to this Court. Based on a review of the petition and all of petitioner's filings, it is clear that the
23 criminal proceedings that petitioner wishes to challenge are still pending in the state courts. Indeed,
24 it appears that petitioner has not yet been convicted of the charges against him, and that he seeks to
25 challenge pretrial proceedings by way of this federal habeas petition.
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1 Exhaustion of state remedies is a prerequisite to a federal court's consideration of
2 claims presented in a petition for a writ of habeas corpus. 28 U.S.C. §2254(b). The exhaustion
3 doctrine is based on the policy of federal-state comity, and is designed to give state courts the initial
4 opportunity to correct alleged constitutional deprivations. *See Picard v. Conner*, 404 U.S. 270, 275
5 (1971). To exhaust a ground for relief, a petitioner must fairly present that ground for relief to the
6 State's highest court, and must give that court the opportunity to address and resolve it. *See Duncan*
7 *v. Henry*, 513 U.S. 364, 365 (1995)(per curiam); *Keeney v. Tamayo-Reyes*, 504 U.S. 1, 10 (1992).

8 The "fair presentation" requirement is satisfied when the claim has been presented to
9 the highest state court by describing the operative facts and the legal theory upon which the federal
10 claim is based. *See Anderson v. Harless*, 459 U.S. 4, 6 (1982); *Batchelor v. Cupp*, 693 F.2d 859, 862
11 (9th Cir. 1982), *cert. denied*, 463 U.S. 1212 (1983). To fairly present a federal claim to the state
12 court, the petitioner must alert the court to the fact that he asserts a claim under the United States
13 Constitution. *Hiivala v. Wood*, 195 F.3d 1098, 1106 (9th Cir. 1999), *cert. denied*, 529 U.S. 1009
14 (2000), *citing Duncan*, 513 U.S. at 365-66. The petitioner must make the federal nature of the claim
15 "explicit either by citing federal law or the decisions of the federal courts." *Lyons v. Crawford*, 232
16 F.3d 666, 668 (9th Cir. 2000), *amended*, 247 F.3d 904 (9th Cir. 2001). The mere similarity of claims
17 of state and federal error is insufficient to establish exhaustion. *Hiivala*, 195 F.3d at 1106, *citing*
18 *Duncan*, 513 U.S. at 366; *see also Lyons*, 232 F.3d at 668-69; *Shumway v. Payne*, 223 F.3d 982, 987
19 (9th Cir. 2000). "[G]eneral appeals to broad constitutional principles, such as due process, equal
20 protection, and the right to a fair trial, are insufficient to establish exhaustion." *Hiivala*, 195 F.3d at
21 1106, *citing Gray v. Netherland*, 518 U.S. 152, 162-63 (1996); *see also Shumway*, 223 F.3d at 987.

22 None of the grounds presented in this petition has been exhausted in state court.
23 Those matters are still proceeding in state court. It is appropriate that the state court have the
24 opportunity to address and resolve any errors that may have occurred in the state court proceedings.
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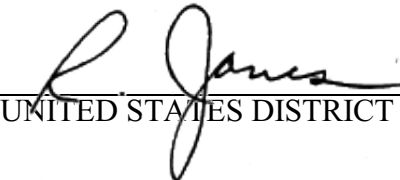
1 Because petitioner has not exhausted his claims in state court, his petition must be dismissed
2 pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts
3 and 28 U.S.C. § 2254(b).

4 **IT IS THEREFORE ORDERED** that the petition for writ of habeas corpus in this
5 case is **DISMISSED WITHOUT PREJUDICE**.

6 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT**
7 accordingly.

8 **IT IS FURTHER ORDERED** that all pending motions (Docket #2, 8, 9, 10, and 11)
9 are **DENIED**.

10 DATED this 20th day of February, 2008.

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13 UNITED STATES DISTRICT JUDGE
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